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RICHARD W. WIEKING  
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U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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8 Attorney for Plaintiff  
9 Matthew K. Potts

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**UNITED STATES DISTRICT COURT**  
**FOR THE**  
**NORTHERN DISTRICT OF CALIFORNIA**

15  
16 MATTHEW K. POTTS, an individual,  
17 Plaintiff,  
18  
19 V.

20 VF OUTDOOR, INC., a Delaware  
21 Corporation, and DOES I through X,  
22 Defendant(s).

23 CASE NO.  
**C 07 05213 BZ**

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**COMPLAINT FOR PATENT**  
**INFRINGEMENT**

31  
32 DEMAND FOR JURY TRIAL  
33  
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38  
**COMPLAINT**

39 Plaintiff Matthew K. Potts, (hereinafter, also, "Plaintiff," "Plaintiff Potts,"  
40 or "Potts") for his complaint against Defendant VF Outdoor, Inc., (hereinafter,  
41 also "VF Outdoor") alleges:

## JURISDICTION

1. This action concerns a United States patent and claims of infringement of that patent by Defendant VF Outdoor, and arises under the Patent Laws of the United States, Title 35 United States Code §100 *et seq.* This Court has jurisdiction under the Patent Laws of the United States, 35 U.S.C. §§100 *et seq.*, including, in particular §281, and under Title 28 United States Code. §1338(a).

## **VENUE**

2. Venue is proper in this judicial district under 28 U.S.C. §1400(b) in that this is a judicial district in which Defendant VF Outdoor has committed acts of infringement and has a regular and established place of business. Venue is also proper in this district under 28 U.S.C. §1400(b) in that this judicial district is a judicial district in which Defendant VF Outdoor resides, within the meaning of 28 U.S.C. §1391(c).

## PARTIES

3. Plaintiff Potts is a natural person who resides in the City of Fremont, County of Alameda, State of California.

4. Defendant VF Outdoor, Inc. (hereinafter also referred to as "VF Outdoor") is a corporation doing business within this judicial district and maintaining a regular and established place of business in Alameda County, California, at 2013 Farallon Drive, San Leandro, California.

1       5. The true names and capacities of Defendant(s) Does 1 through 20, whether  
2 individual, corporate, associate, or otherwise, are presently unknown to Plaintiff  
3 and, therefore, Plaintiff sues Defendant(s) Doe by fictitious names. Plaintiff will  
4 amend this Complaint to allege the true names and capacities of Defendant(s) Doe  
5 when the same have been ascertained.

6

7       6. Plaintiff Potts is informed and believes, and thereon alleges, that at all times  
8 herein mentioned, each Defendant was the agent, servant, and employee of each of  
9 the remaining Defendant(s), and was at all times acting within the purpose and  
10 scope of said agency and employment, with the knowledge and consent or  
11 ratification of each of the other Defendant(s) in doing the things herein alleged.

12

13       7. Plaintiff Potts is informed and believes, and on that basis alleges, that each  
14      of these fictitiously named Defendant(s) is responsible in some manner for the  
15      damages alleged herein.

16

## **CAUSE OF ACTION FOR PATENT INFRINGEMENT**

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19 8. Plaintiff Potts realleges and incorporates paragraphs 1 through 8 as though  
20 fully set forth herein.

21

22       9. On August 1, 2000, United States Patent No. 6,094,844 (hereinafter the  
23       “‘844 patent”), for an invention titled “SHOE POCKET AND METHOD OF  
24       USE,” was duly and legally issued to Matthew K. Potts, who is now, and has been  
25       at all times since the date of issuance of the ‘844 patent, the owner of said patent  
26       and of all rights thereto and thereunder. A copy of the ‘844 patent is attached to  
27       Plaintiff’s complaint in this action.

1       10. Plaintiff has licensed the '844 patent to New Management, Inc., which  
2 licensee has been engaged in selling and distributing footwear that is covered by  
3 the claims of the '844 patent, since September, 2001.

4  
5       11. Plaintiff Potts has given notice of the '844 patent by causing his licensee,  
6 New Management, Inc., to duly and properly mark with the patent number the  
7 products covered by the patent and sold by New Management, in accordance with  
8 Title 35, United States Code § 287.

9  
10      12. Plaintiff Potts is informed and believes and thereon alleges that Defendant  
11 VF Outdoor has infringed and is now infringing the claims of the '844 patent by  
12 making, or causing to be made, using, and selling, within the Northern District of  
13 California and elsewhere within the United States, shoes embodying the invention  
14 claimed therein, specifically including the Reef brand "Stash" model, and that it  
15 will continue to do so unless enjoined by this Court. Such infringement is willful  
16 and deliberate, notice of the existence of the said patents having duly placed on all  
17 of Plaintiff Potts's licensee's products that are covered by the patent.

18  
19      13. Plaintiff Potts has been damaged and has suffered irreparable injury due to  
20 the acts of infringement by Defendant VF Outdoor in that the infringement of said  
21 patent has deprived Plaintiff Potts of sales which Plaintiff Potts' licensee, New  
22 Management, Inc., otherwise would have made, and has in other respects injured  
23 Plaintiff Potts and will cause Plaintiff Potts added injury and loss of profits, and  
24 Plaintiff Potts will continue to suffer irreparable injury unless Defendant VF  
25 Outdoor's activities are enjoined by this Court.

26  
27      14. Plaintiff Potts has suffered and will continue to suffer substantial damage to

1 its business in the form of loss of profits by reason of Defendant VF Outdoor's acts  
2 of patent infringement as alleged above. Potts is at present unable to estimate the  
3 full extent of the monetary damages suffered by reason of VF Outdoor's acts of  
4 patent infringement but will provide such proof at trial.

5  
6 15. Plaintiff Potts is informed and believes and thereon alleges that, Defendant  
7 VF Outdoor has committed these acts willfully and maliciously, and in wanton  
8 disregard of Potts's rights, justifying an award of treble damages pursuant to 35  
9 U.S.C. §284.

10  
11 **PRAYER FOR RELIEF**  
12

13 **WHEREFORE**, Plaintiff Potts prays for relief as follows:

- 14 a. For a preliminary and permanent injunction enjoining Defendant VF  
15 Outdoor, its officers, attorneys, agents, affiliates, employees, and  
16 those persons in active concert or participation or privity with it who  
17 receive actual notice of the order by personal service or otherwise,  
18 from making, using, selling or advertising, or aiding the selling or  
19 advertising of shoes that come within the claims of the '844 patent;  
20 b. For a finding that, by the acts complained of herein, Defendant VF  
21 Outdoor has engaged in infringement of the '844 patent in violation  
22 of the Patent Act, 35 U.S.C. §100, *et seq.*;  
23 c. For damages, in an amount to be fixed by the Court in accordance  
24 with proof, including punitive and exemplary damages as  
25 appropriate, including specifically Defendant VF Outdoor's profits or  
26 gains of any kind resulting from its acts of infringement  
27 d. For a finding that Defendant's acts of infringement and unfair

1 competition are willful and wanton, and justify an award of treble  
2 damages, and for an award of such damages;  
3 e. For an award of prejudgment interest;  
4 f. For an award of all costs, including attorneys' fees incurred, in  
5 prosecuting this action;  
6 g. For an order awarding to Potts such other and further relief as the  
7 Court may deem just and proper.  
8 h. For trial by jury on all matters herein so triable.

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10 Date: Oct. 10, 2007



11  
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13 HARRISON & KAYLOR  
14 Attorney for Plaintiff Matthew K. Potts  
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